

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CISCO SYSTEMS INC,
 Plaintiff,

v.

ARISTA NETWORKS, INC.,
 Defendant.

Case No. [14-cv-05344-BLF](#)

**ORDER GRANTING IN PART AND
 DENYING IN PART DEFENDANT'S
 MOTION TO FILE DOCUMENTS
 UNDER SEAL**

Defendant moves to file under seal Exhibits 1, 2, and 9 to the declaration of David J. Rosen in support of Defendant's Responsive Claim Construction Brief and portions of the Responsive Claim Construction Brief that quotes these documents. ECF 141. Exhibit 1 is excerpts from the deposition transcript of Jeffrey Wheeler, Exhibit 2 is excerpts from the deposition transcript of Kevin C. Almeroth, and Exhibit 9 is excerpts from the deposition transcript of Jung Tjong. *Id.* Defendant indicates that it moves to file these documents under seal because the information contained in these exhibits was designated "Highly Confidential – Attorneys' Eyes Only" by Plaintiff. *Id.*

"Unless a particular court record is one 'traditionally kept secret,'" a "strong presumption in favor of access" to judicial records "is the starting point." *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). A party seeking to seal a judicial record bears the burden of overcoming this presumption by articulating "compelling reasons" for sealing. *Id.* The Ninth Circuit has carved out an exception for materials attached to non-dispositive motions, applying the lower "good cause" standard for sealing such documents. *Id.* at 1179-80. Good cause may exist to seal documents that are "privileged, contain trade secrets, contain confidential research, development or commercial information, or if disclosure of the information might harm a

litigant's competitive standing.” *Dugan v. Lloyds TSB Bank, PLC*, 2013 WL 1435223, at *2 (N.D. Cal. Apr. 9, 2013). A party must make a “particularized showing” [of good cause] for each individual document it seeks to seal. *See Kamakana*, 447 F.3d 1172, 1180. “[B]road allegations of harm, unsubstantiated by specific examples or articulated reasoning,” are insufficient. *In re High-Tech Employee Antitrust Litig.*, 2013 WL 163779, at *2 (N.D. Cal. Jan. 15, 2013) (citing *Beckman Indus. Inc. v. Int’l Ins. Co.*, 996 F.2d 470, 476 (9th Cir. 1992)).

In this District, parties seeking to seal judicial records must furthermore follow Civil L.R. 79-5, which requires, *inter alia*, that a sealing request be “narrowly tailored to seek sealing only of sealable material.” Civil L.R. 79-5(b). Where the submitting party seeks to file under seal a document designated confidential by another party, the burden of articulating compelling reasons for sealing is placed on the designating party. *Id.* at 79-5(e).

Pursuant to Civil Local Rule 79-5(e), Plaintiff submitted the declaration of Kenneth K. Suh. ECF 148. According to Plaintiff, a portion of Exhibit 1 contains confidential information about its competition strategies or personal information about a third-party witness. *Id.* at ¶¶ 5, 7. Plaintiff argues that the disclosure of this information has the significant to cause it competitive harm. *Id.* at ¶ 5. Plaintiff notes that Exhibit 2 does not contain confidential information and appears to have been inadvertently marked “Highly Confidential.” *Id.* at ¶ 9. Finally, Plaintiff indicates that a portion of Exhibit 9 contains confidential personal information about a third-party witness. *Id.* at ¶ 10. The Court has reviewed Plaintiff’s proposed redactions and finds them to be narrowly tailored, consistent with the requirements of Civil Local Rule 79-5(d)(1)(C). As such, Defendant’s motion to seal is GRANTED IN PART AND DENIED IN PART as indicated in the following table:

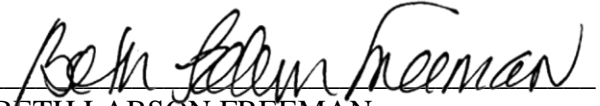
Document	Ruling
Defendant’s Responsive Claim Construction Brief	GRANTED as to Page 6, lines 25-27 and Page 12, lines 4-7 and 7-12. DENIED as to Page 6, lines 1-15; Page 6, lines 18-23; and Page 20, lines 26-28.
Exhibit 1	GRANTED as to Page 7, lines 24-25; Page 126, line 1-127:14; Page 127, lines 15-25; Page 144, lines 1-12; Page 145, lines 12-25; Page 231, line 12-page 234, line 9; Page 235, line 15-page 236, line 1; Page

	237, line 1-page 241, line 16; and Page 233, lines 1-13.
	DENIED as to Page 86, lines 14-18; Page 88, line 22-page 89, line 11; and Page 144, line 24-line 145, line 11.
Exhibit 2	DENIED
Exhibit 9	GRANTED as to Page 8, lines 19-21.
	DENIED as to Page 21, lines 9-11.

Under Civil Local Rule 79-5(f)(3), the materials in question will not be considered by the Court unless Defendant files revised redacted versions of the documents within seven days after the filing of this order.

IT IS SO ORDERED.

Dated: December 14, 2015


 BETH LABSON FREEMAN
 United States District Judge